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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,044	11/20/2001	William O'Neal	7147-1	1478

7590 01/09/2006  
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West Palm Beach, FL 33402-3188

EXAMINER
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JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/990,044

Applicant(s)

O'NEAL, WILLIAM

Examiner

Krisanne Jastrzab

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-12,15,22-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-12,15,22-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 6-12 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hopper U.S. patent No. 5,762,889.

Hopper teaches a method and apparatus for steam sterilization wherein a sterilizing chamber is provided for receiving articles to be sterilized, and has a heater for heating liquid therein to form steam. A water reservoir is fluidly connected through the heater to the chamber. A control system is provided including timing means and two pressure switches 38 and 40 which function as sensors establishing the lower and upper pressures limits within the chamber during operation thereof. The sensors initiate steam injection, activation of the heater, and venting of the chamber via the control mechanism to control the sterilization cycle according to the two set pressure parameters. Steam injection and venting are actuated by valve means. Condensate from the sterilization process is collected at the lower end of the chamber in a condensate retainer means, before being recycled to the water reservoir. See column 4, lines 18-40, column 5, lines 5-35 and 55-65.

Claims 1-2, 4, 6-12, 15, 22-24 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kohmura et al., U.S. Patent No. 4,830,278.

Kohumura teaches a steam sterilization apparatus and the method of it's use, wherein there is a chamber for receiving the articles to be sterilized, that chamber being capable of receiving an amount of liquid. The chamber has means to heat the liquid therein, and plural pressure sensors communicating with control means, with a pair of those sensors set to control the pressure in the chamber during sterilization, at two different pressures, which equate to two different temperatures. The heater is cycled on and off during sterilization in response to measured parameters. Valve means correspond to the pressure sensors, and the control means includes a timer. Kohmura further teaches the provision of a heat exchange chamber to receive the liquid condensate through drain means provided in the chamber, to recycle the heat, but not the liquid. See column 1, lines 20-35, and lines 43-47, column 3, lines 60-68, column 4, column 5, lines 45-55 and lines 63-66, and column 6, lines 13-21 and the figures.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 22-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper as applied to claims 1-2, 4, 6-12 and 15 above, and further in view of Schäfer U.S. patent No. 4,685,507.

Schäfer teaches that it is known and expected in processes, particularly heat treating processes, producing a residual condensate following the treatment process, to recycle that condensate and employ heat recovery from that condensate, unless that condensate has been contaminated and re-introduction of such contaminant is undesirable. See column 1, lines 50-56.

Hopper clearly teaches a separate condensate collection area in the apparatus, but then returns that condensate to the water reservoir for re-use. It would have been obvious to one of ordinary skill in the art to maintain the separation of the condensate and fresh water, as taught in Schäfer, if that condensate were to contain a residual contaminant, such as bio-debris from the surgical instrument being treated, that would affect either the next item to be sterilized or the conduit means within the apparatus itself.

### ***Response to Arguments***

Applicant's arguments filed 9/28/2005 have been fully considered but they are not persuasive.

Applicant argues that the pressure sensors 38 and 40, of Hopper are merely pressure switches defining an operating range that does not meet Applicant's claimed limitations, however, the Examiner would disagree and note that each pressure switch

is set to a different pressure, which equates to a different temperature, and the apparatus is therefor capable of operating at two different, allowable pressures within and upper and lower limit.

Applicant further argues that the Schäfer fails to properly teach keeping input liquid and recovered liquid from a sterilization system separate because it is only taught as being necessary when the recovered liquid is believed to be contaminated, however, the Examiner would disagree and assert that Schäfer's teaching does properly teach separation of liquids, and it is well within the purview of one of ordinary skill in the art to maintain that separation at all times to preclude having to assure that the recovery liquid is free of contamination.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrzab  
Primary Examiner  
Art Unit 1744

January 6, 2006